

**STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

In the Matter of the Department-initiated Notice of Intent
to Modify the Mined Land Reclamation Permit Issued
Pursuant to Title 27 of Environmental Conservation Law
(ECL) Article 23 for the Wainscott Sand and Gravel Mine

- to -

SAND LAND CORPORATION,

Permittee.

**ORDER OF
DISPOSITION**

DEC Permit ID No.
1-4736-00851/00001

March 21, 2019

Appearances of Counsel:

- Thomas S. Berkman, Deputy Commissioner and General Counsel (Scott W. Crisafulli, Deputy Counsel, of counsel), for staff of the Department of Environmental Conservation.
- Matthews, Kirst & Cooley, PLLC (Brian E. Matthews of counsel), for permittee Sand Land Corporation.

PROCEEDINGS

Permittee Sand Land Corporation (Sand Land) holds a permit issued pursuant to the Mined Land Reclamation Law (Environmental Conservation Law [ECL] article 23, title 27) to mine sand and gravel from an approximately 50-acre site it owns at 585 Middle Line Highway, Bridgehampton, Town of Southampton, Suffolk County (DEC Permit ID No. 1-4736-00851/00001). By notice dated September 10, 2018, staff of the Department of Environmental Conservation (Department) provided Sand Land with notice of its intent to modify the permit to require that mining activities at the facility cease and reclamation activities begin.

By letter dated September 21, 2018, Sand Land requested a hearing on the Department-initiated permit modification pursuant to 6 NYCRR 621.13(d). In light of the pendency of permit hearing proceedings on Sand Land's separate application to modify its permit (see DEC Permit Application ID No. 1-4736-00851/00003), Sand Land's request for a hearing on the Department's September 10, 2018 notice was assigned to me.

Prior to the publication of a notice of hearing, Department staff and Sand Land requested that permit hearing proceedings pursuant to 6 NYCRR part 624 (Part 624) be adjourned pending settlement discussions. I granted the parties' request in a conference call conducted on October 19, 2018.

By email dated March 19, 2019, Department staff informed me that the parties have reached an agreement that resolves all issues between them, and that the Department was rescinding its notice of intent to modify Sand Land's permit. Attached to staff's email is a letter to Sand Land withdrawing the intent to modify the permit in accordance with the terms of a stipulation of settlement executed on February 21, 2019 between the Department and Sand Land.

DISCUSSION

Pursuant to DEC Organization and Delegation Memorandum 94-13: Effect of Stipulations on Decision-Making in Permit and Enforcement Hearings (May 5, 1994) (O&D Memo 94-13), where the parties reach a stipulation which resolves any or all of the issues in dispute in a permit hearing proceeding under Part 624, the agreement eliminates the need for the permit hearing and any substantive involvement of the ALJ or the Commissioner with respect to the stipulated issues (see id. at 1). When a statement is filed with the ALJ indicating that a stipulation resolves all issues between the parties, the ALJ issues an order of disposition closing the hearing record and remanding the matter to staff for any necessary administrative procedures.

Here, the parties have indicated that the February 21, 2019 stipulation of settlement resolves all issues between the Department and Sand Land, and Department staff has withdrawn its notice of intent to modify Sand Land's permit.

ORDER OF DISPOSITION

ACCORDINGLY, IT IS HEREBY ORDERED that, pursuant to O&D Memo 94-13, the hearing record on the Department's September 10, 2018, notice of intent to modify Sand Land's permit is closed, and the matter is remanded to Department staff for any further proceedings it deems necessary.

_____/s/_____
James T. McClymonds
Chief Administrative Law Judge

Dated: March 21, 2019
Albany, New York